

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Review of the Section 251 Unbundling)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange)	
Carriers)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of)	
1996)	
)	
Deployment of Wireless Service Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	

COMMENTS OF CELLULAR MOBILE SYSTEMS OF ST. CLOUD, L.L.C.

Cellular Mobile Systems of St. Cloud, LLC d/b/a Cellular 2000 of St. Cloud ("CMS") hereby submits its comments in the above captioned proceeding. On October 2, 2003, AT&T Wireless filed a Petition for Clarification or Reconsideration ("AT&T Petition") asking the Federal Communications Commission ("FCC" or "Commission") to clarify that that commercial mobile radio service ("CMRS") carriers may obtain access to incumbent local exchange carrier ("ILEC") transmission facilities between wireless cell sites and ILEC wire centers as an unbundled network element ("UNE") and that the Commission's service eligibility criteria are not applicable to CMRS carriers. Also on October 2, 2003, T-Mobile USA, Inc. filed a Petition for Reconsideration ("T-Mobile Petition") and Nextel Communications filed a Petition for Clarification or Reconsideration ("Nextel Petition") seeking substantially the same relief as that sought by AT&T Wireless.

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Each of the petitioners requests that the Commission recognize that CMRS carriers are entitled to purchase UNEs from ILECs and specifically the transport facilities necessary to transmit traffic from a CMRS carrier cell site or base station to CMRS switching facilities. CMS agrees with AT&T Wireless that the Commission incorrectly assumes that "a CMRS base station is a type of requesting carrier switch"¹ and that cellular base stations are not switches. Accordingly, the Commission must determine that transport facilities between a base station and a switch are available as a UNE.

The facilities between a cellular base station and a switch are not used to "backhaul" traffic from one switch to another but rather are used to haul originating and terminating traffic from a point of switching to a point of concentration within the functional equivalent of an ILEC's loop network. ILEC special access tariffs treat a "channel termination" as the special access equivalent to a loop.² If ILECs' special access tariffs treat the facilities between a switch and the base station as a loop and CMRS carriers are entitled to access UNE loops, then the facilities should also be available as a UNE loop.

The Commission should also reconsider its revised service eligibility rules. Whether CMRS carriers obtain last mile facilities as a UNE or as special access, the Commission should clarify that CMRS carriers may combine last mile facilities with dedicated interoffice transport without having to meet the service eligibility criteria applicable to wireline carriers utilizing high capacity enhanced extended links ("EELs").

¹ *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel August 21, 2003) (*Triennial Review Order/Further Notice*)

² See T-Mobile Petition at 11 (supporting the concept that ILECs treat facilities between switches and base stations as loops in their application of their special access tariffs).

The service eligibility criteria the Commission has imposed presuppose a wireline CLEC network and serve to unjustly discriminate against a CMRS carrier. It appears that the Commission's concerns regarding widespread availability of EELs is to prevent the wholesale conversion of special access services to UNEs intended for switched, local competition. CMS is not seeking to use EELs for such purposes. In fact CMS, like most CMRS carriers, is providing vigorous, facilities-based competition to ILECs. CMRS carriers only require ILECs to provide UNEs in limited circumstances and generally for facilities between base stations and switches in order to provision their networks. The Commission must avoid rules that provide a vigorous, facilities-based competitor with inferior access to ILEC UNEs compared to a CLEC that provisions an entire network utilizing nothing but a UNE-Platform ("UNE-P").

In conclusion, consistent with the petitions for clarification or reconsideration submitted by AT&T Wireless, T-Mobile and Nextel, the Commission should clarify (1) that UNEs should be made available to CMRS carriers to provision their networks on a non-discriminatory basis, and (2) that service eligibility criteria are inapplicable to CMRS carriers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Joy Barksdale, hereby certify that on this 6th day of November, 2003, CMS of St. Cloud's Comments in the above name proceeding were filed electronically on the Commission's ECFS in accordance with the Commission's rules and copies were served on the following:

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